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7 UNITED STATES BANKRUPTCY COURT  
8 NORTHERN DISTRICT OF CALIFORNIA

9 IN RE: CASE No. 09-13181

10 CHAPTER 11

11 HOSAIN AZIZIAN, and  
FATEMEH H. AZIZIAN,

12  
13 DEBTORS. /

MOTION TO DETERMINE SECURED  
STATUS; DECLARATION OF FATEMEH  
AZIZIAN; MEMORANDUM OF POINTS  
AND AUTHORITIES

14 Date: December 11, 2009

15 Time: 9:00 a.m.

16 Place: 99 South E St.  
Santa Rosa, CA

17 TO: HONORABLE ALAN JAROSLOVSKY, UNITED STATES BANKRUPTCY  
18 JUDGE:

19 HOSAIN AZIZIAN and FATEMEH H. AZIZIAN, Debtors herein, hereby  
20 move the above entitled Court for an Order Determining the Secured  
21 Status of the allowed claim of Aurora Loan Services, LLC (13  
22 Margory Ct., Novato, CA 94947) pursuant to Section 506 of the Code  
23 and the terms of the Chapter 13 Plan.

24 Said Motion is made on the grounds that the value of the  
25 collateral is less than the allowed claim of such holder and that  
26 the claim is unsecured in part. Said allowed claim is secured as  
27 to \$250,000.

28 Said Motion is based hereon, on the appended Declaration of

1 Fatemeh Azizian and on the Memorandum of Points and Authorities  
2 appended hereto.

3 Dated: 11/12/09

DAVID N. CHANDLER, p.c.

4  
5 By: /s/ David N. Chandler

6 DAVID N. CHANDLER,  
Attorney for Debtors

7 DECLARATION OF FATEMEH H. AZIZIAN

8 I, Fatemeh AZizian, declare and say:

9 1. That if called as a witness, I am competent to testify to  
10 the within matters from my own knowledge.

11 2. I am one the Debtors in the above captioned matter and  
12 have an opinion of value of the subject real property based upon my  
13 ownership thereof.

14 3. The real property located at 13 Margory Ct., Novato,  
15 California is real property owned by the estate consisting of a  
16 single family residence.

17 4. Said real property has a current market value of \$250,000  
18 in my opinion.

19 5. Based upon such value the allowed claim of claimant is  
20 unsecured in part and secured to the extent of the said value of  
21 the subject property.

22 Executed under penalty of perjury this 4<sup>th</sup> day of November,  
23 2009 at Novato, California.

24 /s/ Fatemeh Azizian  
25 Fatemeh Azizian, Debtor

26 MEMORANDUM OF POINTS AND AUTHORITIES

27 1. An allowed claim of a creditor secured by a lien on  
28 property in which the estate has an interest is secured to the

1 extent of the value of such creditor's interest in the estate's  
2 interest in such property. 11 U.S.C. Section 506(a)(1).

3 2. To the extent that a lien secures a claim against the  
4 debtor that is not an allowed secured claim, such lien is void.  
5 Section 506(d).

6 3. Section 506(a) bifurcates a debt into secured and  
7 unsecured components. The secured component is the secured debt.  
8 In re Glenn, 786 F.2d 1144 (9<sup>th</sup> Cir. 1986).

9 4. It is respectfully submitted that the value of the  
10 collateral which is collateral for the claim of Aurora Loan  
11 Serving, LLC is as set forth herein and that the claimant's  
12 allowable claim is secured to the extent of the value of the  
13 subject property, \$250,000, and unsecured as to the balance.

14 5. It is submitted that the collateral be valued as herein  
15 provided and that the secured component of the claim be determined.

16 Dated: 11/12/09

Respectfully submitted,

DAVID N. CHANDLER, p.c.

19 By: /s/ David N. Chandler  
20 DAVID N. CHANDLER,  
21 Attorney for Debtors  
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